

4. For discrimination complaints, notice that the complainant must wait until 60 days have elapsed from the filing of an appeal with the California Department of Education before pursuing civil law remedies.
5. A detailed statement of all specific issues that were brought up during the investigation and the extent to which these issues were resolved.

If an employee is disciplined as a result of the complaint, this report shall simply state that effective action was taken and that the employee was informed of district expectations. The report shall not give any further information as to the nature of the disciplinary action.

#### **APPEALS TO THE CALIFORNIA DEPARTMENT OF EDUCATION**

If dissatisfied with the district's decision, the complainant may appeal in writing to the California Department of Education within 15 days of receiving the district's decision. For good cause, the Superintendent of Public Instruction may grant an extension for filing appeals.

When appealing to the California Department of Education, the complainant must specify the reason(s) for appealing the district's decision and must include a copy of the locally filed complaint and the district's decision.

The California Department of Education may directly intervene in the complaint without waiting for action by the District when one of the conditions listed in 5 CCR 4650 exists. In addition, the California Department of Education may also intervene in those cases where the District has not taken action within 60 calendar days of the date the complaint was filed with the District.

#### **CIVIL LAW REMEDIES**

A complainant may pursue available civil law remedies outside of the District's complaint procedures. Complainants may seek assistance from mediation centers or public/private interest attorneys. Civil law remedies that may be imposed by a court include, but are not limited to, injunctions and restraining orders. For discrimination complaints, however, a complainant must wait until 60 days have elapsed from the filing of an appeal with the California Department of Education before pursuing civil law remedies. The moratorium does not apply to injunctive relief and is applicable only if the District has appropriately, and in a timely manner, apprised the complainant of his/her right to file a complaint in accordance with 5 CCR 4622.



# **FORMAL COMPLAINT PROCEDURES**

*This booklet includes formal complaint procedures and corresponding complaint forms for the following categories:*

**COMPLAINTS CONCERNING SCHOOLS**

Board Policy #1312

**COMPLAINTS CONCERNING DISTRICT EMPLOYEES**

Board Policy/ Administrative Regulations #1312.1

**UNIVERSAL COMPLAINT PROCEDURES**

**(PROGRAM COMPLIANCE)**

Board Policy/ Administrative Regulations #1312.3

*Board Adopted: April 21, 2005*

## **COMPLAINTS CONCERNING THE SCHOOLS BOARD POLICY #1312**

The Governing Board believes that the quality of the educational program can improve when the district listens to complaints, considers differences of opinion, and resolves disagreements through an established, objective process.

The Board encourages complainants to resolve problems early and informally whenever possible. If a problem remains unresolved, the individual should submit a formal complaint as early as possible in accordance with appropriate district procedures. District procedures shall be readily accessible to the public.

Individual Board members do not have authority to resolve complaints. If approached directly with a complaint, however, Board members should listen to the complaint and show their concern by referring the complainant to the Superintendent or designee so that the problem may receive proper consideration.

## **COMPLAINTS CONCERNING DISTRICT EMPLOYEE BOARD POLICY #1312.1**

The Governing Board accepts responsibility for providing a means by which the public can hold employees accountable for their actions. The Board desires that complaints be resolved expeditiously without disrupting the educational process.

The Superintendent or designee shall develop regulations which permit the public to submit complaints against district employees in an appropriate way. These regulations shall protect the rights of involved parties. The Board may serve as an appeals body if the complaint is not resolved.

The Board prohibits retaliation against complainants. The Superintendent or designee at his/her discretion may keep a complainant's identity confidential, except to the extent necessary to investigate the complaint. The district will not investigate anonymous complaints unless it so desires.

### **Step 3: Investigation of Complaint**

The compliance officer is encouraged to hold an investigative meeting within five days of receiving the complaint or an unsuccessful attempt to mediate the complaint or unsuccessful attempt to mediate the complaint. This meeting shall provide an opportunity for the complainant and/or his/her representative to repeat the complaint orally.

The complainant and/or his/her representative and the district's representatives shall also have an opportunity to present information relevant to the complaint. Parties to the dispute may discuss the complaint and question each other or each other's witnesses.

### **Step 4: Response**

Within 30 days of receiving the complaint, the compliance officer shall prepare and send to the complainant a written report of the district's investigation and decision, as described in Step #5 below. If the complainant is dissatisfied with the compliance officer's decision, he/she may, within five days, file his/her complaint in writing with the Board.

The Board may consider the matter at its next regular Board meeting or at a special Board meeting convened in order to meet the 60-day time limit within which the complaint must be answered. The Board may decide not to hear the complaint, in which case the compliance officer's decision shall be final.

If the Board hears the complaint, the compliance officer shall send the Board's decision to the complainant within 30 days of the district's initially receiving the complaint or within the time period that has been specified in a written agreement with the complainant. (5 CCR 4631)

### **Step 5: Final Written Decision**

The report of the District's decision shall be in writing and sent to the complainant.

The report of the district's decision shall be written in English and in the language of the complainant whenever feasible or required by law. If it is not feasible to write this report in the complainant's primary language, the district shall arrange a meeting at which a community member will interpret it for the complainant.

This report shall include:

1. The findings and disposition of the complaint, including corrective actions, if any.
2. The rationale for the above disposition.
3. Notice of the complainant's right to appeal the decision to the California Department of Education, and procedures to be followed for initiating such an appeal.

## **NOTIFICATIONS**

The Superintendent or designee shall meet the notification requirements of 5 CCR 4622 including the annual dissemination of district complaint procedures and information about available appeals, civil law remedies and conditions under which a complaint may be taken directly to the California Department of Education. The Superintendent or designee shall ensure that complainants understand that they may pursue other remedies, including actions before civil courts or other public agencies.

## **PROCEDURES**

The following procedures shall be used to address all complaints, which allege that the district has violated federal or state laws or regulations governing educational programs. Compliance officers shall maintain a record of each complaint and subsequent related actions, including all information required for compliance with 5 CCR 4632.

All parties involved in allegations shall be notified when a complaint is filed, when a complaint meeting or hearing is scheduled, and when a decision or ruling is made.

### **Step 1: Filing of Complaint**

Complaints alleging unlawful discrimination may be filed by a person who alleges that he/she personally suffered unlawful discrimination or by a person who believes that an individual or any specific class of individuals has been subjected to unlawful discrimination. The complaint must be initiated no later than six months from the date when the alleged discrimination occurred or when the complainant first obtained knowledge of the facts of the alleged discrimination.

The complaint shall be presented to the compliance officer who shall maintain a log of complaints received, providing each with a code number and a date stamp.

If a complainant is unable to put a complaint in writing due to conditions such as illiteracy or other disabilities, district staff shall help him/her to file the complaint.

### **Step 2: Mediation**

Within three days of receiving the complaint, the compliance officer may informally discuss with the complainant the possibility of using mediation. If the complainant agrees to mediation, the compliance officer shall make all arrangements for this process.

## **ADMINISTRATIVE REGULATION #1312.1**

### **COMPLAINT PROCEDURES**

The Superintendent or designee shall determine whether a complaint should be considered a complaint against the district and/or the individual, and whether it should be resolved by the district's process for complaints concerning personnel, other district procedures.

To promote prompt and fair resolution of the complaint, the following procedures shall govern the resolution of complaints against district employees.

1. Every effort should be made to resolve a complaint at the earliest possible stage. Whenever possible, the complainant should communicate directly to the employee in order to resolve the concerns.
2. If a complainant is unable or unwilling to resolve the complaint directly with the person involved, he/she may submit an oral or written complaint to the employee's immediate supervisor or the principal.
3. All complaints related to District personnel other than administrators shall be submitted in writing to the principal or immediate supervisor. If the complainant is unable to prepare the complaint in writing, administrative staff shall help him/ her to do so. Complaints related to a principal or central office administrator shall be initially filed in writing with the Superintendent or designee. Complaints related to the Superintendent shall be initially filed in writing with the Board.
4. When a written complaint is received, the employee shall be notified in accordance with collective bargaining agreements.
5. A written complaint must include:
  - a. The full name of each employee involved,
  - b. A brief but specific summary of the complaint and the facts surrounding it, and
  - c. A specific description of any prior attempt to discuss the complaint with the employee and the failure to resolve the matter.
6. The person responsible for investigating complaints will attempt to resolve the complaint to the satisfaction of the parties involved within 30 days.
7. Both the complainant and the employee against whom the complaint was made may appeal a decision by the principal or immediate supervisor to the Superintendent or designee, who will attempt to resolve the complaint to the satisfaction of the person(s) involved within 30 days. Parties should consider and accept the

Superintendent or designee's decision as final. However, the complainant, the employee, or the Superintendent or designee may ask to address the Board regarding the complaint.

8. Before any Board consideration of a complaint, the Superintendent or designee shall submit to the Board a written report concerning the complaint, including but not be limited to:
  - a. The full name of each employee involved,
  - b. A brief but specific summary of the complaint and the facts surrounding it, sufficient to inform the Board and the parties as to the precise nature of the complaint and to allow the parties to prepare a defense,
  - c. A copy of the signed original complaint, and
  - d. A summary of the action taken by the Superintendent or designee, together with his/her specific finding that the problem has not been resolved and the reasons.
9. The Board may uphold the Superintendent's decision without hearing the complaint.
10. All parties to a complaint may be asked to attend a Board meeting in order to clarify the issue and present all available evidence.
11. A closed session may be held to hear the complaint in accordance with law.
12. The decision of the Board shall be final.

### **COMPLAINTS REGARDING CHILD ABUSE**

Any complaint of child abuse or neglect alleged against a District employee shall be reported to the appropriate local agencies in accordance with law Board Policy, and Administrative Regulations.

### **BOARD POLICY #1312.3 UNIFORM COMPLAINT PROCEDURES (PROGRAM COMPLAINEE)**

The Governing Board recognizes that the district is responsible for complying with all applicable state and federal laws and regulations governing educational programs.

The district shall follow uniform complaint procedures when addressing complaints alleging unlawful discrimination based on age, sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, or mental or physical disability in any program or activity that receives or benefits from state financial assistance. Uniform Complaint Procedures shall also be used when addressing complaints alleging failure to

comply with state and/or federal laws in adult education, consolidated categorical aid programs, migrant education, vocational education, childcare and development programs, child nutrition programs, special education programs, and federal school safety planning requirements.

The Board encourages the early, informal resolution of complaints at the site level whenever possible.

The Board acknowledges and respects student and employee rights to privacy. Discrimination complaints shall be investigated in a manner that protects the confidentiality of the parties and the facts. This includes keeping the identity of the complainant confidential except to the extent necessary to carry out the investigation or proceedings, as determined by the Superintendent or designee on a case-by-case basis.

The Board prohibits retaliation in any form for the filing of a complaint, the reporting of instances of discrimination, or participation in complaint procedures. Such participation shall not in any way affect the status, grades, or work assignments of the complainant.

The Board recognizes that a neutral mediator can often suggest an early compromise that is agreeable to all parties in a dispute. In accordance with uniform complaint procedures, whenever all parties to a complaint agree to try resolving their problem through mediation, the Superintendent or designee shall initiate a mediation process before beginning a formal compliance investigation. The Superintendent or designee shall ensure that mediation results are consistent with state and federal laws and regulations.

### **ADMINISTRATIVE REGULATION #1312.3**

#### **COMPLIANCE OFFICERS**

The Governing Board designates the following compliance officer(s) to receive and investigate complaints and to ensure district compliance with law:

Superintendent  
Banning Unified School District  
161 W. Williams St.  
Banning, California 92220  
(951) 922-2706

The Superintendent or designee shall ensure that employees designated to investigate complaints are knowledgeable about the laws and programs for which they are responsible. Such employees may have access to legal counsel as determined by the Superintendent or designee.